

Title 16

ADMINISTRATION OF DEVELOPMENT PERMIT REGULATIONS

Chapters:

- 16.01 Purpose and Authority**
- 16.02 Definitions**
- 16.03 Project Permit Applications**
- 16.04 Project Permit Application Process**
- 16.05 Public Notice**
- 16.06 Consistency with Development Regulations and SEPA Integration**
- 16.07 Final Decisions**
- 16.08 Appeals**
- 16.10 Comprehensive Plan Amendment Procedures**

Chapter 16.01

PURPOSE AND AUTHORITY

Sections:

- 16.01.010 Purpose and authority.
- 16.01.020 Applicability.
- 16.01.030 Legislative decisions.
- 16.01.040 Legislative authority not restricted.
- 16.01.050 Conflict of provisions.
- 16.01.060 Severability.

16.01.010 Purpose and authority.

A. The purpose of this title is to provide for effective and efficient administrative review of land use development permit applications (referred to as “project permit applications” by this title) with consistent procedures for similar projects, and combining procedural and substantive environmental review (SEPA) with review of project permit applications under other applicable requirements. Fundamental land use planning choices made in adopted comprehensive plans and development regulations will serve as the foundation for project review and permit application decisions.

B. Legislative Authority. This title responds to the Chapter 36.70B RCW mandate for local project review, which requires the integration and consolidation of the requirements of the Growth Management Act (GMA) and the State Environmental Policy Act (SEPA) for all project level review. This title provides a framework within which the consistency of project permit applications with comprehensive plans and development regulations shall be determined.

C. The review process for project permit applications shall include land use, environmental, public, and governmental review so that documents prepared under different requirements can be reviewed together by the public and other agencies in one process for one project. (Ord. 98-66 § 1 (part), 1998).

16.01.020 Applicability.

The provisions of this title shall apply to all applications for land use development or environmental permits subject to review under the following titles or chapters of the Yakima Municipal Code:

- A. Title 14, Subdivisions.
- B. Title 15, Yakima Urban Area Zoning Ordinance.
- C. Chapter 6.88, Environmental Policy (SEPA).

~~D. Chapter 11.58, Flood Damage Prevention. (Ord. 98-66 § 1 (part), 1998).~~

16.01.030 Legislative decisions.

The following types of decisions are legislative as opposed to quasi-judicial actions and are not subject to the procedures in this chapter, unless otherwise specified:

- A. Zoning ordinance text amendments;
- B. Adoption of development regulations and amendments;
- C. Area-wide rezones to implement new city policies;
- D. Adoption of the land use comprehensive plan and any plan amendments; and
- E. Annexations. (Ord. 98-66 § 1 (part), 1998).

16.01.040 Legislative authority not restricted.

Nothing in this title or the permit processing procedures shall limit the authority of the city council to amend the city's land use comprehensive plan, or to amend the city's development regulations. (Ord. 98-66 § 1 (part), 1998).

16.01.050 Conflict of provisions.

Subject to the provisions of state law, this title shall govern procedural aspects of all development project permit decisions within the city of Yakima, ~~or~~ Washington. In the case of conflicts between this title or parts of this title and other rules, regulations, resolutions, ordinances, the procedures of this title shall govern. (Ord. 98-66 § 1 (part), 1998).

16.01.060 Severability.

If any section, sentence, clause or phrase of this title should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this title. (Ord. 98-66 § 1 (part), 1998).

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Chapter 16.02

DEFINITIONS

Sections:

- 16.02.010 Definitions.
- 16.02.020 Closed record appeal.
- 16.02.030 Department.
- 16.02.040 Director.
- 16.02.050 Open record hearing.
- 16.02.060 Project permit application.
- 16.02.070 Public meeting.
- 16.02.080 Reviewing official.
- 16.02.090 SEPA.

16.02.010 Definitions.

The terms and words used in this title are consistent with those defined in the applicable provisions of the Yakima Municipal Code ("YMC"). In addition to those terms defined elsewhere in the Yakima Municipal Code, this title defines certain specific terms for the purposes of this title. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural, and the plural the singular; "shall" is always mandatory and "may" authorizes exercise of discretion. (Ord. 98-66 § 1 (part), 1998).

16.02.020 Closed record appeal.

"Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. (RCW 36.70B.020) means an appeal conducted by the Yakima city council following an open record hearing conducted by the hearing examiner on a project permit application. The appeal shall be decided on the basis of the record established at the open record hearing, and only appeal argument shall be allowed. Upon a clear showing of good cause, the city council may allow the record to be supplemented by limited new evidence or information. (Ord. 98-66 § 1 (part), 1998).

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16.02.030 Department.

"Department" means the department of community ~~and economic~~ development of the city of Yakima. (Ord. 98-66 § 1 (part), 1998).

16.02.040 Director.

"Director" means the director of the department of community ~~and economic~~ development or his/her designee. (Ord. 98-66 § 1 (part), 1998).

16.02.050 Open record hearing.

"Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit. (RCW 36.70B.020) means a public hearing, conducted by the hearing examiner. The hearing creates the evidentiary record pursuant to procedures prescribed by ordinance or resolution. Depending on the type of project permit application involved, an open record hearing may result in a recommendation to the city council or a final decision on a project permit application or may occur as part of an appeal of an administrative decision on a project permit application. An open record hearing may be held prior to a decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit. (Ord. 98-66 § 1 (part), 1998).

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16.02.060 Project permit application.

“Project permit” or “project permit application” or “project application” or “permit” means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection stated herein. (RCW 36.70B.020) means any land use or environmental permit or license required for a project action. (Ord. 98-66 § 1 (part), 1998).

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16.02.070 Public meeting.

“Public meeting” means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file. (RCW 36.70B.020) means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file. (Ord. 98-66 § 1 (part), 1998).

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16.02.080 Reviewing official.

“Reviewing official” means the building and enforcement official, administrative official, hearing examiner or legislative body, when engaged in any review or approval procedure under the provisions of this title, including without limitation issuing determinations, notices, and waivers and making decisions to modify requirements. “Reviewing official” also includes the planning department when engaged in accepting applications or reviewing administrative modifications under Chapter 15.17 YMC. This definition is intended to be consistent with the definition of “reviewing official” provided by YMC 15.02.020. (Ord. 98-66 § 1 (part), 1998).

16.02.090 SEPA.

“SEPA” refers to the State Environmental Policy Act, Chapter 43.21C RCW and the regulations adopted thereunder, and Chapter 6.88 YMC, as such laws exist or are hereafter amended. (Ord. 98-66 § 1 (part), 1998).

Chapter 16.03
PROJECT PERMIT APPLICATIONS

Sections:

- 16.03.010 Determination of review procedure.
- 16.03.020 Exemptions from project permit process.
- 16.03.030 Limitation on open public record hearings and closed record appeals.
- 16.03.040 Applicant's right to combined hearing.

16.03.010 Determination of review procedure.

- A. Determination by Director. The director or his/her designee shall determine whether any proposed project is exempt from the procedures of this title, should any clarification be necessary.
- B. Master Application Process. An application that involves two or more procedures including SEPA compliance may be consolidated and processed simultaneously, including combined notices, staff reports and hearings if necessary.
- C. The applicant may determine whether such an application shall be consolidated or processed separately.
- D. Decision-Maker(s). Applications processed in accordance with subsection B of this section shall be consolidated for hearing by the highest level decision-maker(s). The city of Yakima decision-makers are ranked as follows: the city council is the highest, followed by the hearing examiner or the city planning commission as applicable, and then the director or his/her designee. (Ord. 2010-22 § 10, 2010: Ord. 98-66 § 1 (part), 1998).

16.03.020 Exemptions from project permit process.

- A. Right-of-way use permits, and street vacations pursuant to Chapter 35.79 RCW, present special circumstances that warrant a review process different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130, and are specifically excluded from the procedures set forth in this title.
- B. All building permits including [Class-Type](#) (1) applications, boundary line adjustments, other construction permits, or, as determined by the director, similar administrative approvals which are categorically exempt from environmental review under SEPA, or permit/approvals for which environmental review has been completed in connection with other permits for the same project, are exempted from the provisions of this title. (Ord. 98-66 § 1 (part), 1998).

16.03.030 Limitation on open public record hearings and closed record appeals.

Except for the appeal of a SEPA determination of significance, no more than one open public record hearing and no more than one closed record appeal may occur on a single project permit application or master application. (Ord. 98-66 § 1 (part), 1998).

16.03.040 Applicant's right to combined hearing.

- A. Required public hearings on a permit application shall be combined if the applicant so requests, as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a different schedule which requires additional time in order to combine the hearings.
- B. Prerequisites to Combined Public Hearing. A combined public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:
 - 1. The other agency is not expressly prohibited by statute from doing so;
 - 2. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
 - 3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing. (Ord. 98-66 § 1 (part), 1998).

Chapter 16.04
PROJECT PERMIT APPLICATION PROCESS

Sections:

- 16.04.010 Determination of completeness.
- 16.04.020 “Complete” application/ additional information.
- 16.04.030 Incomplete application procedure.
- 16.04.040 City’s failure to provide determination of completeness.

16.04.010 Determination of completeness.

Within twenty-eight days after receiving a project permit application, the city shall mail or provide in person a written determination to the applicant which states:

- A. That the application is complete or that the application is incomplete and what is necessary to make the application complete; and
- B. To the extent known by the city, the identity of other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application. (Ord. 98-66 § 1 (part), 1998).

16.04.020 “Complete” application/additional information.

- A. A project permit application is complete for purposes of this section when it is sufficient for continued processing even though additional information may be required.
- B. The city’s determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time if substantial project modifications are undertaken subsequent to the determination of completeness or if new information is required. (Ord. 98-66 § 1 (part), 1998).

16.04.030 Incomplete application procedure.

If the city determines an application is not complete, the city shall identify what additional information is necessary for continued processing. Within fourteen days after an applicant has submitted additional necessary information, the city shall determine whether or not the application is complete according to the provisions of YMC 16.04.030 and notify the applicant in the same manner. (Ord. 98-66 § 1 (part), 1998).

16.04.040 City’s failure to provide determination of completeness.

A project permit application shall be deemed complete under this section if the city does not provide a written determination to the applicant that the application is incomplete as provided in YMC 16.04.030 above. (Ord. 98-66 § 1 (part), 1998).

Chapter 16.05

PUBLIC NOTICE

Sections:

- 16.05.010 Notice of application.
- 16.05.020 Contents of notice of application.
- 16.05.030 Public comment on the notice of application.
- 16.05.040 Notice of application and SEPA integration.
- 16.05.050 Notice of public hearing.

16.05.010 Notice of application.

A. The city shall issue a notice of application on all project permit applications that are not determined by the director to be exempt from the procedures provided by this title. The notice of application shall be mailed to the applicant's designated contact person, and, as listed on current Yakima County assessor records, the owners of property within three hundred feet of the development site. The notice may be either a postcard format or letter size paper.

B. The notice may also be sent to agencies interested in the application, as determined by the planning manager, and to other persons or entities who request such notice.

C. If the application is subject to an open record public hearing, the date of the public hearing shall be included in the notice of application and the notice of application shall be provided at least ~~fifteen~~-twenty days prior to the open record hearing. The provisions of YMC § 16.05.030 shall also apply. (Ord. 2010-31 § 6, 2010: Ord. 98-66 § 1 (part), 1998).

16.05.020 Contents of notice of application.

The notice of application shall comply with the notice requirements specified in YMC § 16.05.010 and shall include:

- A. The date of the application, the date of the notice of completion for the application, the date the notice of application is issued;
- B. A brief description of the proposed project action, including the project location and city file number;
- C. The location where the application and any studies can be reviewed, including the city website information;
- D. The date when the public comment period ends, which shall be the twentieth day following the date of notice of application, and a statement of the right of any person to comment on the application and become a party of record for the application;
- E. The date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
- F. Any other information determined appropriate by the director. (Ord. 2010-31 § 7, 2010: Ord. 98-66 § 1 (part), 1998).

16.05.030 Public comment on the notice of application.

All public comments on the notice of application must be received in the department of community ~~and economic~~ development not later than five p.m. on the twentieth day after the notice of application is issued. If the twenty-day public comment period ends on a weekend or holiday, it shall be automatically extended to the end of the next business day. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as possible. Any public comment received by the City of Yakima Planning Division requesting to become a party of record shall be added to the record and shall be entitled to receive any future notices and/or decisions associated with the application. (Ord. 98-66 § 1 (part), 1998).

16.05.040 Notice of application and SEPA integration.

Except for a determination of significance pursuant to SEPA, the city may not issue its threshold determination or issue a decision or recommendation on a project permit until the expiration of the public comment period on the notice of application. (Ord. 98-66 § 1 (part), 1998).

16.05.050 Notice of public hearing.

A. The notice of application may include the notice of open record public hearing for permit applications which require open record public hearings. The notice may be either a postcard format or letter size paper.

B. Content of Notice of Public Hearing. The notice given of an open record public hearing required in this chapter shall contain:

1. The name and address of the applicant or the applicant's representative;
2. Description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;
3. The date, time, and place of the hearing;
4. A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation;
5. A brief statement of the nature of the proposed use or development;
6. A statement that all interested persons may appear and provide testimony;
7. When information pertaining to the application may be examined and when and how written comments addressing findings required for a decision by the hearing body may be admitted. (Ord. 2010-31 § 8, 2010; Ord. 98-66 § 1 (part), 1998).

Chapter 16.06

CONSISTENCY WITH DEVELOPMENT REGULATIONS AND SEPA INTEGRATION

Sections:

- 16.06.010 Determination of consistency.
- 16.06.020 Consistency analysis.
- 16.06.030 SEPA integration—Purpose.
- 16.06.040 Use of existing environmental documents.
- 16.06.050 Issuance of SEPA threshold determinations.
- 16.06.060 Appeals of SEPA determinations.

16.06.010 Determination of consistency.

Fundamental land use planning choices made in adopted comprehensive plans and development regulations will serve as the foundation for project review. As part of project review, pursuant to RCW 36.70B.030 and RCW 36.70B.040, the decision-maker shall determine if a proposed project is consistent with applicable development regulations, or in the absence of applicable regulations, the adopted comprehensive plan.

The determination of consistency is governed by Chapter 36.70B and shall be made according to the process established in YMC 16.06.020 and shall be part of the notice of application, as provided in Chapter 16.05 YMC. (Ord. 98-66 § 1 (part), 1998).

16.06.020 Consistency analysis.

Pursuant to RCW 36.70B.040(3), for purposes of this section, the term “consistency” shall include all terms used in Chapter 36.70A RCW and Chapter 36.70B RCW to refer to performance in accordance with Chapter 36.70A RCW and Chapter 36.70B RCW, including but not limited to compliance, conformity, and consistency.

A. Project Considerations. Pursuant to RCW 36.70B.040, whether a proposed project is consistent with applicable development regulations, or, in the absence of applicable regulations, the appropriate elements of the comprehensive plan, shall be determined by considering the following project considerations:

1. The type of land use;
2. The level of development, such as units per acre or other measures of density;
3. Infrastructure, including public facilities and services needed to serve the development; and
4. The characteristics of the development, such as development standards.

B. Development Regulations/Comprehensive Plan Considerations. Pursuant to RCW 36.70B.030(2), during project review, the city, or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations, the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of:

1. The type(s) of land use(s) permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for approval of planned unit developments or conditional or special uses are satisfied;
2. The density of residential development in the urban growth area or the level of development such as units per acre or other measures of density;
3. The availability and adequacy of infrastructure and public facilities identified in the adopted comprehensive plan, if the adopted plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and

- C. The project considerations identified in subsection A of this section shall all be considered in relation to the development regulations/comprehensive plan considerations identified in subsection B of this section;
- D. Pursuant to RCW 36.70B.040(2), in determining consistency, the determinations made pursuant to subsection B of this section shall be controlling.
- E. Pursuant to RCW 36.70B.030(3), during project review, the city of Yakima or any subsequent reviewing body shall not, except for issues of code interpretation, reexamine alternatives to or hear appeals on:
1. The type(s) of land use(s) permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied, as determined by the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan;
 2. The density of residential development in urban growth areas, as determined by the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan; and
 3. The availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW. (Ord. 98-66 § 1 (part), 1998).

16.06.030 SEPA integration—Purpose.

Environmental review for projects determined not to be categorically exempt under SEPA shall be integrated and shall proceed concurrently with the permit procedures of this title. (Ord. 98-66 § 1 (part), 1998).

16.06.040 Use of existing environmental documents.

The city may determine that adopted comprehensive plans, subarea plan elements of a comprehensive plan, development regulations, or other local, state or federal rules or laws provide adequate environmental analysis and mitigation of some or all specific probable adverse environmental impacts of a proposed action. (Ord. 98-66 § 1 (part), 1998).

16.06.050 Issuance of SEPA threshold determinations.

- A. Expiration of Notice of Application Comment Period. Except for a determination of significance (DS), the city of Yakima may not issue its SEPA threshold determination or issue a decision or recommendation on a project permit until the expiration of the public comment period on the notice of application as defined in Section 16.05.100 of this title.
- B. Preliminary SEPA Determination and Notice of Application. To integrate project and environmental review under SEPA and to encourage early public comment on project applications, a preliminary SEPA determination may be included with notice of application if such preliminary SEPA determination has been made at the time the notice of application is issued. This preliminary determination may not substitute for actual SEPA threshold determination.
- C. SEPA Determination of Significance (DS) and Notice of Application. If the city of Yakima has made a SEPA determination of significance (DS) concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in the subsection prevents a determination of significance and scoping notice from being issued prior to a notice of application.
- D. Public Hearing on Project Permit. If an open record predecision hearing is required on the underlying project permit application, the city of Yakima shall issue its threshold determination at least twenty days prior to the open record predecision hearing.
- E. Nothing in this section limits the authority of the city in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.
- F. The city shall also review the application under Chapter 6.88, the city environmental policy ordinance. (Ord. 98-66 § 1 (part), 1998).

16.06.060 Appeals of SEPA determinations.

Appeals of SEPA determinations are subject to the provisions of Chapter 16.08 of this title. (Ord. 98-66 § 1 (part), 1998).

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Chapter 16.07

FINAL DECISIONS

Sections:

- 16.07.010 Notice of decision.
- 16.07.020 Notice of decision—Public notice.
- 16.07.030 Notice of decision—Time frames.
- 16.07.040 Exceptions from one hundred twenty day period.

16.07.010 Notice of decision.

The notice of decision shall be a single written report which states all the decisions made on all project permits that are part of the application. The notice of decision shall state any mitigation required under applicable development regulations or under SEPA. If a SEPA threshold determination has not been issued previously, the notice of decision shall state this determination. Notice of applicable administrative appeal procedures shall also be included. (Ord. 98-66 § 1 (part), 1998).

16.07.020 Notice of decision—Public notice.

A. The notice of decision shall be provided by first-class mail to the applicant and to any person who, prior to the decision, requested notice of the decision or who commented on the application.

B. The notice of decision shall be distributed by first-class mail to the parties and entities who were provided a notice of application. (Ord. 98-66 § 1 (part), 1998).

16.07.030 Notice of decision—Time frames.

A. The notice of decision shall be issued by the reviewing official within three business days of the date the decision is final.

B. The notice of final decision shall be issued within one hundred twenty days after the city notifies the applicant the application is complete. The time frames provided in this title shall apply to project permit applications filed on or after the ordinance enacting this title becomes effective. Calculation of the time lapsed will be based upon the criteria specified in Section 16.07.040.

C. If the city is unable to issue its final decision on a project permit application within the time limits provided in this section, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits ~~can not~~ cannot be met and an estimated date for issuance of the notice of final decision. (Ord. 98-66 § 1 (part), 1998).

16.07.040 Exceptions from one hundred twenty day period.

A. In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of final decision, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the city or another agency with jurisdiction to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city or other agency notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or fourteen days after the date the information has been provided to the city;
2. If the city determines that the information submitted by the applicant under Section 16.04.020 is insufficient, it shall notify the applicant of the deficiencies, and the procedures under subsection (A)(1) of this section shall apply as if a new request for studies had been made;
3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, if the city by ordinance has established time periods for

completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement;

4. Any period for administrative appeals of project permits if an open record appeal hearing or a closed record appeal or both are allowed. The time period for consideration and decision on appeals shall not exceed:

- a. Ninety days for an open record appeal hearing, unless the parties to the appeal agree to extend this time period; and
- b. Sixty days for a closed record appeal, unless the parties to the appeal agree to extend this time period.

5. Any extension of time mutually agreed upon by the applicant and the local government. (Ord. 98-66 § 1 (part), 1998).

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Chapter 16.08

APPEALS

Sections:

- 16.08.010 Consolidated appeals.
- 16.08.020 Open record appeals subject to review by hearing examiner.
- 16.08.030 Closed record appeal subject to review by the city council.
- 16.08.040 Judicial appeals.

16.08.010 Consolidated appeals.

A. All appeals of project permit application decisions, other than an appeal of SEPA determination of significance, shall be considered together in a consolidated appeal and shall not be separated from the substantive matters of the application.

B. Appeals of Determinations of Significance under SEPA, Chapter 6.88 YMC, shall proceed as provided in that chapter in an open record hearing. The purpose of this early and separate appeal hearing is to resolve the need for an environmental impact statement (EIS) and to permit administrative and judicial review prior to preparation of an EIS. (Ord. 98-66 § 1 (part), 1998).

16.08.020 Open record appeals subject to review by hearing examiner.

A. The hearing examiner shall hear appeals in a de novo hearing.

B. Notice of an appeal hearing shall be mailed to parties entitled to notice of the decision, including posting of property and published notice.

C. A staff report shall be prepared, file transmitted to the examiner, and hearing conducted in the manner described in the appropriate ordinance subject of the appeal and Washington State law. The hearing examiner shall have ten working days to issue a decision on the appeal. All decisions of the hearing examiner are subject to appeal to the city council. (Ord. 98-66 § 1 (part), 1998).

~~CD. The applicant or property owner shall remove all land use action signs from the subject property within 30 days from the date of issuance of the final decision or action on the underlying land use application. Any signage which is in good condition shall be returned to the City of Yakima Planning Division.~~

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~~CD. A staff report shall be prepared, file transmitted to the examiner, and hearing conducted in the manner described in the appropriate ordinance subject of the appeal and Washington State law. The hearing examiner shall have ten working days to issue a decision on the appeal. All decisions of the hearing examiner are subject to appeal to the city council. (Ord. 98-66 § 1 (part), 1998).~~

16.08.030 Closed record appeal subject to review by the city council.

A. The city council shall hear appeals of all decisions by the hearing examiner during a public meeting or a limited hearing for receipt of oral legal argument.

B. A complete appeal application must be submitted prior to the scheduling of the council meeting or limited hearing.

C. The closed record appeal shall be on the record before the city council, and no new evidence shall be presented. The record shall include all materials received in evidence at any previous stage of the review, audio/visual tapes of the prior hearing(s), and the final order being appealed, and argument by the parties at the examiner's hearing.

D. The appellants and any respondents to the appeal shall have the opportunity to present oral and written argument. Oral argument shall be confined to the prior established hearing examiner record and to any alleged errors in the decision.

E. Following the closed record appeal hearing, the council may affirm the decision of the examiner, remand the matter back to the hearing examiner with appropriate directions, or may reverse or modify the hearing examiner decision. The council shall adopt its own written findings and conclusions in support of its decision. If the council determines there is no error in the examiner's decision, it may adopt the findings of the examiner and accept the decision of the hearing examiner. (Ord. 98-66 § 1 (part), 1998).

16.08.040 Judicial appeals.

The city's final decision on an application may be appealed by a party of record with standing to file a land use petition in Yakima County superior court. Such petition must be filed within twenty-one days of issuance of the decision, as provided in Chapter 36.70C RCW. (Ord. 98-66 § 1 (part), 1998).

DRAFT

Chapter 16.10

COMPREHENSIVE PLAN AMENDMENT PROCEDURES

Sections:

- 16.10.010 Purpose.
- 16.10.020 Applicability.
- 16.10.030 Procedures.
- 16.10.035 Exceptions to the annual amendment process.
- 16.10.040 Approval criteria.
- 16.10.050 Submittal requirements.
- 16.10.060 Timing of amendments.
- 16.10.070 Public process and notice on proposed comprehensive plan amendment.
- 16.10.080 City of Yakima planning commission recommendation(s).
- 16.10.090 ~~Joint City council and Yakima County commissioners~~ public hearing.
- 16.10.095 Development regulation amendments.
- 16.10.100 Implementation and application of comprehensive plan amendment procedures for the year 2003.

16.10.010 Purpose.

The purpose of this chapter is to provide procedures and criteria for amending and updating the Yakima urban area comprehensive plan and development regulations to be consistent with and implement the comprehensive plan pursuant to RCW 36.70A.130. Comprehensive plan amendments may involve changes in the plan written text, the plan policy maps, or to the future land use map. Comprehensive plan and development regulation amendments will be reviewed in accordance with this chapter, the state Growth Management Act (GMA), the Yakima county-wide planning policy (CWPP), the goals and policies of the Yakima urban area comprehensive plan, and official population growth forecasts and growth indicators, as applicable. Nothing in this chapter shall be construed to limit the legislative authority of the city to consider and adopt amendments and revisions to the Yakima urban area comprehensive plan or the city's development regulations. (Ord. 2004-14 § 1, 2004; Ord. 2003-19 § 1 (part), 2003).

16.10.020 Applicability.

(1) The criteria and requirements of this chapter shall apply to all applications or proposals for changes to the comprehensive plan text or map designations and development regulations, unless specifically exempted. The following types of comprehensive plan amendments may be considered through the comprehensive plan amendment process:

- (a) Future land use map changes;
- (b) Changes to other plan policy maps; ~~and;~~
- (c) Comprehensive plan text changes; ~~and~~
- (d) Development regulation amendments.

(2) The criteria of this chapter shall apply to comprehensive plan designations and development regulation amendments no more frequently than once a year, except that amendments may be considered more frequently for special circumstances as may be provided for in RCW 36.70A.130, or as the same may be hereafter amended. The review of any proposed amendments authorized by RCW 36.70A.130 to occur more frequently than once a year shall be undertaken as provided for in YMC § 16.10.035, which shall be the exclusive means of notice, public participation, and review for such amendments, any other provision of the Yakima Municipal Code to the contrary notwithstanding.

(3) Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (a) “Comprehensive plan” means the most recent version of the Yakima urban area comprehensive plan, inclusive of all adopted amendments.
- (b) “Future land use map” means the GIS map maintained by the city of Yakima as its approved current future land use map.
- (c) “Interested parties” means any person or persons who have provided their names and addresses in writing to planning staff and indicated their desire to receive mailings regarding a specific land use application within a specified area of the city of Yakima.
- (d) “Property owners” means the person or persons shown as the owner of a parcel or parcels on the official records of the Yakima County assessor as of the date of mailing a land use notice.
- (e) “Text amendment” means any comprehensive plan amendment in the form of text changes or standards modifications, whether in the form of additions, corrections, or other modifications.
- (f) “Plan policy map” means any geographic depiction or map contained in the comprehensive plan other than the future land use map.
- (g) “Planning staff” means staff members of the [city code administration and planning division](#) ~~department of Community Development~~.
- (h) “Development regulations” or “regulation” means the controls placed on development or land use activities by ~~Yakima County~~ or the city of Yakima, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinance, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of ~~Yakima County~~ or the city of Yakima. (Ord. 2004-42 § 1, 2004: Ord. 2004-14 § 2, 2004: Ord. 2003-19 § 1 (part), 2003).

16.10.030 Procedures.

- (1) Annually, the city council shall decide whether to open or forego opening the comprehensive plan amendment process pursuant to RCW 36.70A.130, and, by motion or resolution, declare its decision. In the event the city council decides to open the comprehensive plan amendment process, the city planning commission shall hold a public meeting in February to announce that the comprehensive plan amendment process is open to accept applications. At that time, the city planning commission will invite public comments and suggestions regarding proposed changes to the comprehensive plan.
- (2) All comprehensive plan amendments shall be considered legislative actions and subject to the procedures in this chapter.
- (3) Applications must comply with YMC § 16.10.050 and be submitted by the last business day in April in order for a proposed amendment to be included in that year’s process.
- (4) Future land use map changes may be initiated by the subject property owner(s), or by planning staff, by using the appropriate application forms. The city planning commission shall docket all future land use map amendment requests for further review and consideration if the amendment application is deemed complete as provided for herein.
- (5) Other plan policy map and/or text amendments may be initiated by any person, including planning staff, by using the appropriate application forms. The city planning commission shall docket all such amendments for further review and consideration if the amendment application is deemed complete as provided for herein.

- (6) After completion of the amendment docketing process, the city planning commission shall invite public comment regarding docketed amendment(s) concurrently with the notice announcing the city planning commission public hearing at which proposed amendments will be reviewed.
- (7) Additional documentation may be needed to address public facilities and services elements that may be necessary for a proposed amendment. Examples of such services may include water, sewer, storm drainage, transportation, police and fire protection, and schools. Planning staff will assist applicants in identifying additional documentation necessary to enable appropriate review.
- (8) After proposed amendments are docketed:
- (a) The planning staff will review the docketed comprehensive plan amendments together with such review as may be required under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and Chapter 6.88 YMC.
 - (b) The city planning commission shall set dates for work sessions on docketed item(s) prior to setting the city planning commission public hearing date(s).
- (9) No comprehensive plan amendment applications shall be docketed after the last business day in April, unless directed by the city council. (Ord. 2013-021 § 2 (Exh. B), 2013: Ord. 2010-22 § 11, 2010: Ord. 2005-70 § 1, 2005: Ord. 2003-19 § 1 (part), 2003).

16.10.035 Exceptions to the annual amendment process.

The Yakima city council may propose amendments to the comprehensive plan as authorized by RCW 36.70A.130 more frequently than once a year pursuant to the following process:

- (1) The city council may initiate consideration of an amendment to the comprehensive plan at any time, regardless of the annual amendment review process, by resolution, on condition that city council shall simultaneously enter findings that: (a) an amendment proposed to be considered independent of the annual amendment review process complies with the provisions of RCW 36.70A.130; and (b) to wait until the next amendment cycle would be detrimental to the public's interests.
- (2) Proposed amendments initiated by council action as provided for in subsection (1) of this section shall be reviewed as follows:
- (a) Any proposed comprehensive plan amendment addressing the initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea may be adopted by ordinance at any time.
 - (b) Any proposed comprehensive plan amendment addressing the adoption or amendment of a shoreline master program may be adopted under the procedures set forth in Chapter 90.58 RCW.
 - (c) Any proposed comprehensive plan amendment addressing the amendment of the capital facilities element of the comprehensive plan may be adopted by ordinance at any time provided that the same is undertaken concurrently with the adoption or amendment of the city of Yakima budget.
- (3) For any proposed comprehensive plan amendment consistent with subsection (2) of this section, planning staff shall identify, and comply with, methods to assure early and continuous public participation in the review of such amendments. These methods may include the procedures set forth in YMC § 16.10.070, but may also include other procedures consistent with the terms of RCW 36.70A.140 including the use of methods different from those identified YMC § 16.10.070.
- (4) Nothing contained in this section shall modify in any way the public notice or other public participation process that may be required for any proposed amendment to the comprehensive plan pursuant to other applicable law, including the State Environmental Policy Act, Chapter 43.21C RCW, or the city of Yakima Environmental Policy chapter, Chapter 6.88 YMC. (Ord. 2004-42 § 2, 2004).

16.10.040 Approval criteria.

The following criteria shall be considered in the review of any proposed amendment to the Yakima urban area comprehensive plan:

- (1) To alter the future land used map or other plan policy map, or effect a comprehensive plan text amendment, the proposed amendment must do one or more of the following:
 - (a) Address circumstances that have changed since the last time the relevant comprehensive plan map or text was considered;
 - (b) Better implement applicable comprehensive plan policies than the current relevant comprehensive plan map or text;
 - (c) Correct an obvious mapping error; or
 - (d) Address an identified deficiency in the comprehensive plan;
- (2) Pursuant to RCW 36.70A.040, proposed comprehensive plan amendments shall be coordinated with, and take into consideration, the comprehensive plans adopted by Yakima County or cities with which the city of Yakima has, in part, common borders or related regional issues as may be required by RCW 36.70A.100;
- (3) Proposed comprehensive plan amendments must be consistent with the Growth Management Act (GMA), Chapter 36.70A RCW, and the Yakima county-wide planning policy (CWPP); and
- (4) Cumulative impacts of all comprehensive plan amendments, including those approved since the original adoption of the comprehensive plan, shall be considered in the evaluation of any proposed amendments. (Ord. 2003-19 § 1 (part), 2003).

16.10.050 Submittal requirements.

All applications for comprehensive plan amendments shall be made in writing, shall use the proper planning division application forms, and shall include the following information:

- (1) For future land use map amendments:
 - (a) Completed application on the proper form signed by the legal owner of the subject property or by a representative authorized to do so by written instrument submitted with the application form, unless the amendment is initiated by the planning staff;
 - (b) Parcel numbers and legal description(s) of the subject property;
 - (c) Map(s) of the subject property that indicate roads, any areas identified in any applicable critical areas designations, and the future land use map designation of adjacent properties;
 - (d) Maps indicating the current and proposed future land use map designations, to be provided in both an eight-and-one-half-inch by eleven-inch and eleven-inch by seventeen-inch format to a standard engineering scale (e.g., 1:20);
 - (e) Descriptive information regarding the property including status of existing land use, access to sewer and water, and availability of public facilities such as schools, fire and police services;
 - (f) A written narrative stating the reasons for the request for the future land use map amendment and explaining how the proposed amendment meets the criteria in YMC 16.10.040; and,
 - (g) Completed and signed SEPA checklist pursuant to Chapter 43.21C RCW and Chapter 6.88 YMC.
- (2) For comprehensive plan policy map or text amendments:

- (a) Completed application on the proper form signed by the applicant(s);
- (b) Identification of the proposed amendment indicating the section and paragraph location for the current comprehensive plan provision sought to be changed, if any, and including, for text amendments, the specific text sought to be added or amended;
- (c) For plan policy map amendments, maps indicating the current, if any, and proposed policy map designations, to be provided in both an eight and one-half inch by eleven-inch and eleven-inch by seventeen-inch format to a standard engineering scale (e.g., 1:20);
- (d) A written narrative stating the reasons for the request for the amendment and explaining how the proposed amendment meets the criteria in YMC 16.10.040; and
- (e) Completed and signed SEPA checklist pursuant to Chapter 43.21C RCW and Chapter 6.88 YMC. (Ord. 2003-19 § 1 (part), 2003).

16.10.060 Timing of amendments.

- (1) The comprehensive plan shall be amended no more often than once per year and no less often than as provided in RCW 36.70A.130, as now existing or as hereafter amended, in accordance with the time periods and procedures established in this chapter except in the circumstances described in YMC 16.10.020(2).
- (2) Applications for comprehensive plan amendments will be accepted in ~~the code administration and planning division office~~ the Community Development office after the planning commission has announced, at its meeting in February, that the comprehensive plan amendment process is open for application. The planning staff will accept letters of interest for amendment proposals and/or suggestions at any time. Amendment applications received in the ~~code administration and planning division~~ Community Development office after the last business day in April will be processed ~~in during~~ the next scheduled comprehensive plan amendment cycle, unless submitted directly by city council pursuant to YMC 16.10.035.
- (3) The following public notice will precede the planning commission February public meeting:
 - (a) Not later than twenty days prior to the planning commission public meeting date, a legal ~~and display ad~~ notice will be placed in the local newspaper of general circulation announcing the planning commission's February meeting;
 - (b) ~~The City of Yakima Planning Division will provide An announcement a press release will run onto the Yakima public affairs channel (YPAC) electronic bulletin board not later than fourteen days before the planning commission public meeting date until the date of the planning commission meeting;~~
 - (c) The planning staff will notify the local media regarding the planning commission's public meeting through a prepared press release; and
 - (d) The planning staff will place the planning commission public meeting notice on the city of Yakima's website.
- (4) At the planning commission's first meeting following the last business day in April, the planning commission and planning staff will review docketed comprehensive plan amendment(s). At such time:
 - (a) The planning staff shall notify the Washington State Department of ~~Community Trade and Economic Development~~ Commerce of the city's intent to process the proposed docketed amendments;
 - (b) The Washington State Department of ~~Community Trade and Economic Development~~ Commerce shall also receive notification of any specific amendment proposal at least sixty days prior to final adoption of said amendment proposal; and

(c) The planning staff shall issue a request for consultation with state and local aviation entities as more fully set forth in RCW 36.70.547, or as the same may be hereafter amended.

(5) The planning staff shall establish timelines for additional review and consideration by the planning commission so that the comprehensive plan amendment review process for a given year will be completed in that year's amendment cycle, which shall expire not later than December 31st.

(6) The planning staff shall provide a complete and accurate copy of any adopted comprehensive plan amendment to the Washington State Department of [Community-Trade and Economic DevelopmentCommerce](#) within ten days after the final adoption of the ordinance. (Ord. 2013-021 § 3 (Exh. C), 2013: Ord. 2003-19 § 1 (part), 2003).

16.10.070 Public process and notice on proposed comprehensive plan amendment.

To provide for the opportunity of citizens, interested parties and reviewing agencies to suggest and make comments on proposed comprehensive plan amendments, the planning staff will provide for broad dissemination of information regarding the amendment process. Notice shall be reasonably calculated to give interested parties, the general public, and government agencies a meaningful opportunity to be apprised of, and participate in, the comprehensive plan amendment process. The planning staff shall identify and follow a procedure reasonably calculated to address public comments regarding proposed amendments.

(1) Except for instances where specific notice requirements are provided for elsewhere in this chapter, in which event the specific notice requirements shall control, examples of types of notice which the planning staff may utilize, as appropriate, include the following:

- (a) A general mailing to interested parties;
- (b) Posting on the city of Yakima's website;
- (c) Posting the property with signage, for which a future land use map amendment has been submitted and docketed;
- (d) Notice in the local newspaper of general circulation at least twenty days prior to any public hearing and as may be otherwise required by RCW 36.70.390, or as the same may be hereafter amended;
- (e) Announcements on Yakima's public affairs channel (YPAC) of scheduled public hearings;
- (f) Press releases to the local media;
- (g) Posting of information at the code administration and planning division and city clerk's offices, in addition to other city clerk designated locations;
- (h) Notice by general mailing to property owners located within three hundred feet of external property line boundaries designated in a particular amendment application;
- (i) Notification to reviewing agencies as may be established by Washington State Department of [Community-Trade and EconomicCommerce Development](#) pursuant to RCW 36.70A.035(1) and 36.70.547.

(2) Additional public notification may be undertaken by planning staff if it determines that it is in the public interest to do so.

(3) The notice of application shall follow the notice requirements of Yakima Municipal Code Chapter 16.05 and may be either a postcard format or letter size paper. (Ord. 2010-31 § 9, 2010: Ord. 2010-22 § 12, 2010: Ord. 2003-19 § 1 (part), 2003).

16.10.080 City of Yakima planning commission recommendation(s).

To provide for the opportunity of citizens, interested parties and reviewing agencies to review the recommendation of the city planning commission to the ~~joint meeting of the city council and Yakima County commissioners~~ regarding comprehensive plan amendments, the following procedures shall apply:

- (1) The city planning commission shall provide a recommendation on each docketed amendment proposal with findings of fact to support each recommendation based on the approval criteria set forth in YMC 16.10.040; and
- (2) The planning staff shall notify the ~~public of the city planning commission recommendation by the following process: applicant and parties of record of the city planning commission's recommendation and make it available for public inspection:~~
 - (a) Not later than twenty days prior to the ~~joint city council and Yakima County commissioners'~~ public hearing date, a legal ~~and display ad~~ notice will be placed in the local newspaper of general circulation announcing the ~~joint city council and Yakima County commissioners'~~ public hearing;
 - ~~(b) An announcement will run on Yakima public affairs channel (YPAC) electronic bulletin board not later than fourteen days before the joint city council and Yakima County commissioners' public hearing date until the date of the joint city council and Yakima County commissioners' public hearing;~~
 - ~~(c) The planning staff will notify local media outlets regarding joint the city council and Yakima County commissioners' public hearing through a prepared press release; and~~
 - ~~(d) The planning staff will place the joint city council and Yakima County commissioners' public hearing notice on the city of Yakima's website. (Ord. 2010-22 § 13, 2010; Ord. 2003-19 § 1 (part), 2003).~~

16.10.090 Joint City council and Yakima County commissioners public hearing.

At a ~~joint meeting of the city council and Yakima County commissioners~~, the ~~two~~ elected bodies will review the city planning commission recommendations regarding any docketed comprehensive plan amendments and hold a public hearing to provide citizens, interested parties and reviewing agencies an opportunity to comment on the recommendations.

- (1) The notice of the ~~joint public hearing of the city council and Yakima County commissioners~~ on the recommendations of the city planning commission will be promulgated by the city clerk pursuant to the process for regular business meetings of the city council, and will include the following:
 - (a) The time, location, and date of the ~~joint city council and Yakima County commissioners'~~ public hearing;
 - (b) A copy of the agenda item; and
 - (c) A list of all comprehensive plan amendments to be considered at the hearing.
- (2) An open record public hearing will be conducted by ~~the joint city council and Yakima County commissioners~~ ~~the city council~~ to hear testimony regarding each amendment under consideration.
- (3) At the conclusion of the hearing, the city council shall direct planning staff to prepare legislation to approve, approve with conditions, or deny each amendment under consideration and shall identify findings of fact to support each decision based on the approval criteria set forth in YMC 16.10.040.
- (4) At a subsequent city council meeting, the city council shall enact an ordinance adopting their decision reached at the ~~joint city council and Yakima County commissioners'~~ public hearing. Following city council action, notification of the ordinance shall be accomplished in the following manner:
 - (a) The planning staff shall provide a complete and accurate copy of the adopted comprehensive plan amendment(s) to the Washington State Department of ~~Community Trade and Economic Development~~ ~~Commerce~~ within ten days after final adoption; and

(b) The city clerk shall have [a summary of](#) the approved comprehensive plan amendment ordinance published in the local newspaper of general circulation;

(c) The city clerk shall post the ordinance to the city's website as an ordinance amending the Yakima Municipal Code. ~~In addition, the planning staff shall post the comprehensive plan amendments on the city's website in accordance with this chapter.~~

~~(d) The applicant or property owner shall remove all land use action signs from the subject property within 30 days from the date of issuance of the final decision or action on the underlying land use application. Any signage which is in good condition shall be returned to the City of Yakima Planning Division. (Ord. 2010-22 § 14, 2010; Ord. 2003-19 § 1 (part), 2003).~~

16.10.095 Development regulation amendments.

Changes to the development regulations of the Yakima Municipal Code, unless otherwise provided for, shall follow the amendment procedures of Chapter 16.10, comprehensive plan amendment procedures, except the general mailing to property owners located within ~~five~~**300** hundred feet of external property line boundaries, as stated in YMC 16.10.070(1) public process and notice on proposed comprehensive plan amendment, shall not apply. (Ord. 2004-14 § 3, 2004).

16.10.100 Implementation and application of comprehensive plan amendment procedures for the year 2004.

Upon the passage, approval, and publication of the ordinance codified in this chapter, and for calendar year 2004 only, the amendment process shall be deemed open for all pending applications and for all applications received by the last business day in April, 2004, without otherwise requiring announcement from the regional planning commission as contemplated in YMC 16.10.030 and 16.10.060. Publication of the ordinance codified in this chapter shall be deemed sufficient notice to the public that the amendment process for calendar year 2004 is open. All other notice obligations required by this chapter shall remain in full force and effect during the 2004 amendment cycle. (Ord. 2010-22 § 15, 2010; Ord. 2004-14 § 4, 2004; Ord. 2003-19 § 1 (part), 2003).